

Karin E. Fisch (KF 1082)  
Orin Kurtz (OK 7334)  
Abbey Spanier Rodd & Abrams, LLP  
212 East 39<sup>th</sup> Street  
New York, New York 10016  
212.889.3700

Alan E. Sash (AS 8804)  
McLaughlin & Stern, LLP  
260 Madison Avenue  
New York, New York 10016  
212.448.1100

*Attorneys for Plaintiff*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JOSHUA G. FENSTERSTOCK, an individual,  
on his own behalf and on behalf of all  
similarly situated,

Case No. 08 Civ. 3622 (TPG)

Plaintiff,

-against-

EDUCATION FINANCE PARTNERS, a  
California Corporation, and AFFILIATED  
COMPUTER SERVICES, INC., a Delaware  
Corporation,

Defendants.

-----X

**DECLARATION OF ORIN KURTZ IN OPPOSITION TO  
DEFENDANT AFFILIATED COMPUTER SERVICES, INC.'S MOTION TO  
COMPEL ARBITRATION AND STAY PROCEEDINGS IN THIS CASE**

I, Orin Kurtz, hereby declare, under the penalties of perjury of the United States of America and the State of New York, as follows:

1. I am an associate at the law firm of Abbey Spanier Rodd & Abrams, LLP, one of the firms representing plaintiff Joshua G. Fensterstock ("Plaintiff") in the above-referenced action. I respectfully submit this declaration in opposition to the motion of Defendant Affiliated Computer Services, Inc. ("ACS") to compel arbitration and stay the instant proceedings.

2. Attached to this Declaration as Exhibit A is a true and correct copy of the notification sent to Plaintiff by ACS on August 29, 2006, after Plaintiff entered into his Loan and Promissory Note with Defendant Education Finance Partners.

Executed this 21<sup>st</sup> day of July, 2008, New York, New York.



Orin Kurtz (OK 7334)

# **EXHIBIT A**

**A C S**

Any correspondence other than payments should be sent to the address listed on the back of this statement.

Page 1 of 1

ACCOUNT STATEMENT Account #

Statement Date: 08/29/06

NAME	FENSTERSTOCK, JOSHUA G	INTEREST RATE	9.320
ORIGINAL LOAN AMOUNT	\$52,915.49	INTEREST ACCRUED THROUGH 07/31/06	\$0.00
SCHOOL REFUND	\$0.00	LOAN TYPE	FFPPCLOAN STATUS Payout
CAPITALIZED INTEREST	\$0.00	LAST ENROLLED AT	HOFSTRA UNIVERSITY
TOTAL PRINCIPAL PAID	\$0.00	EXPECTED/ACTUAL SEPARATION DATE	08/21/06
TOTAL INTEREST PAID	\$0.00	DEFERMENT/FORBEARANCE EXPIRATION DATE	
TOTAL LATE CHARGES PAID	\$0.00	FIRST/NEXT INSTALLMENT	10/14/06
OUTSTANDING PRINCIPAL BALANCE	\$52,915.49	CURRENT DUE AMOUNT	\$0.00
LAST PAYMENT APPLIED	00/00/00 \$0.00	PAST DUE AMOUNT	\$0.00
PRINCIPAL PAID \$0.00	INTEREST PAID \$0.00	LATE CHARGES DUE	\$0.00
LATE CHARGES PAID	\$0.00	TOTAL AMOUNT DUE	\$0.00

If your enrollment information is incorrect and your enrollment, on at least a 1/2 (half) time basis, can be certified beyond the date(s) listed above, please provide the following information:

NAME OF SCHOOL OF ATTENDANCE	
DATE OF ATTENDANCE	
FROM: (MM/DD/YY)	TO: (MM/DD/YY)

If any other information is not correct, please contact us. Otherwise, no action is required.

## IMPORTANT MESSAGE -- PLEASE READ

CONU

ACS provides a Student Loan Billing Service to ED FIN PARTNRS, the current owner of your loan(s). We will be working with them and with you as you repay your student loan.

This account statement reflects information on your account as of AUGUST 29, 2006.

This communication is related to collection of a debt and any information obtained will be used for that purpose. Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt, or any portion thereof, this debt will be assumed valid. If you notify this office in writing within 30 days from receiving this notice this office will obtain verification of the debt and mail a copy of such to you.



P.O. BOX 7051  
UTICA, NY 13504-7051

Address or Phone Number change?  
Check box and write your new address  
and/or phone number on back and send  
this page to our return address.



CONU OH168Q :

060829

FENSTERSTOCK, JOSHUA G

2955 LONNI LANE  
MERRICK, NY 11566